

**INTERAGENCY AGREEMENT
FOR THE CROSS DESIGNATION OF DEPARTMENT OF THE INTERIOR LAW
ENFORCEMENT OFFICERS TO PROVIDE LAW ENFORCEMENT AND
INVESTIGATIVE SUPPORT IN AREAS UNDER THE RESPONSIBILITY OF THE
NATIONAL PARK SERVICE, BUREAU OF LAND MANAGEMENT, FISH AND
WILDLIFE SERVICE, BUREAU OF RECLAMATION, AND
THE BUREAU OF INDIAN AFFAIRS**

I. Introduction and Purpose.

Law enforcement programs within the Department of the Interior (DOI) must be able to support one another. To accomplish this, the National Park Service, Bureau of Land Management, Fish and Wildlife Service, Bureau of Reclamation, and the Bureau of Indian Affairs (collectively the "Agencies" or, when singly referring to any one of these entities, "Agency") now enter into this Interagency Agreement ("Agreement") which, under their respective statutory authorities and under the following procedures, herein now designate their law enforcement personnel with each Agency's law enforcement authorities, and agree that Agency officers may support one another in the enforcement of applicable laws and regulation in areas within their responsibility or control.

II. Statutory Authority.

The capacity of DOI programs to support one another not only is beneficial, appropriate, economical, and advantageous to the public interest, it also increases the efficiency and effectiveness of each law enforcement program within the Department. The National Park Service (pursuant to 16 U.S.C. § 1a-6), the Bureau of Land Management (pursuant to 43 U.S.C. § 1733), the Fish and Wildlife Service (pursuant to 16 U.S.C. § 742(b), 16 USC § 3375(b), 16 USC § 668dd(g)), the Bureau of Reclamation (pursuant to 43 U.S.C. § 373b), and the Bureau of Indian Affairs (pursuant to 25 U.S.C. § 2804(a)) are authorized to designate Federal law enforcement personnel with certain law enforcement authority to act in areas within their responsibility or control.¹

This Agreement is intended to operate pursuant to the statutory designation authority of the Agencies set forth in the paragraph above, as well as under such future statutory changes to these authorities that may occur.

Any Agency whose designation authority changes after entering into this Agreement shall provide other Agencies with a written notice of the changes and details of the new authority.

III. Procedures

Requests for law enforcement and investigative support may be made through an Agency's incident Command System, first-line supervisors, or officer-to-officer, and may be communicated in person, electronically, or by radio or by telephone. All requests shall be

¹ The statutory scopes of the current designation authorities for the Agencies, most of which have geographic or operational limitations, are detailed in Attachment A to this Agreement.

documented and communicated to the respective Agencies' incident command systems and first-line supervisors as soon as possible.

An Agency may decline to provide law enforcement and investigative support to a requesting Agency. When an Agency agrees to provide such support, it shall be the requesting Agency's responsibility to supervise and otherwise ensure that the proper exercise of law enforcement authority occurs by the personnel it receives.

Personnel of an Agency providing support shall use and display their own credentials. When deemed necessary by the requesting Agency, it may also issue credentials to such personnel.

It will also be the responsibility of the Agency obtaining such personnel to advise them of its: (i) law enforcement authority and its geographic and operational limitations (if any); (ii) geographic boundaries and jurisdictional status; (iii) applicable public conduct laws and regulations that may be enforced; (iv) communication system, notification protocols, and reporting and record keeping requirements; and (v) any other police agencies that operate in the area, how to communicate with them, and the local police's recognition protocol for armed non-uniformed officers (if any). Additionally, to the extent that designated law enforcement personnel use equipment or weapons from the Agency that requested the assistance, they should be trained regarding their proper use.

While the designation of law enforcement authority is now in effect by this Agreement, the Agencies are encouraged to have their local law enforcement managers enter into local written agreements that more fully detail its scope and objectives and the range of responsibilities including, where applicable, reimbursement of expenses under the Economy Act (31 U.S.C. § 1535).

IV. Duration and Effect

This Agreement shall be in effect for 10 years but is subject to periodic review and modification upon the written consent of the Agencies. An Agency wishing to terminate participation in this Agreement shall provide the other Agencies with thirty days written notice of intent signed by the head of the Agency.

Nothing in this Agreement is intended to either expand, limit, or restrict the law enforcement authority of an Agency, or preclude other law enforcement agreements.

Nothing in this Agreement or in any local written agreement is intended to create any right, privilege, or benefit not otherwise recognized by law. Rather, this Agreement and any local written agreement are meant to ensure that DOI's law enforcement personnel deployed to assist another Agency have and properly exercise the designated law enforcement authority of the requesting Agency, based on legally appropriate and relevant law enforcement and public safety considerations and are properly supervised.

Nothing in this Agreement is intended to affect such authority delegated to the Deputy Assistant Secretary – Law Enforcement and Security over all law enforcement resources within DOI during a catastrophic, unusual occurrence, or National emergency situation.

Nothing in this Agreement is intended to affect the policies, procedures, and other guidelines applicable to the Agencies during a catastrophic, unusual occurrence, or National emergency situation as discussed in the Departmental Manual

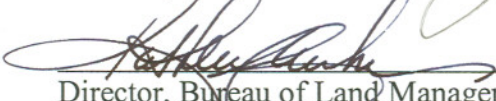
The 1992 Interagency Agreement entered into by the Agencies is rescinded and no longer has any force or effect.


Secretary, Department of the Interior

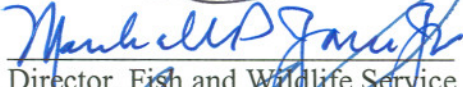
6/17/04
Date


Director, National Park Service

5/24/04
Date


Director, Bureau of Land Management

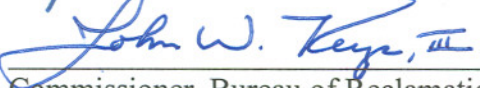
4/1/04
Date


Director, Fish and Wildlife Service

5-11-04
Date


Deputy Commissioner, Bureau of Indian Affairs

6-1-04
Date


Commissioner, Bureau of Reclamation

4/5/04
Date

Attachment A

I. The National Park Service:

- A. 16 U.S.C. § 1a-6(b) (1)-(3) provides that the Secretary may designate officers [commissioned park rangers and United States Park Police officers pursuant to 41 Fed. Reg. 44, 879 (Oct. 13, 1976)] to carry firearms, make arrests with or without a warrant, and conduct investigations of Federal offenses that were committed with the National Park System.
- B. 16 U.S.C. § 1a-6(c) provides that the Secretary may designate Federal and State officers to act as “special policemen,” with the same powers as NPS officers, in the National Park System.
- C. 16 U.S.C. § 1b(1), provides that the Secretary may provide “emergency assistance” outside the National Park System for “[r]endering of emergency rescue, fire fighting, and cooperative assistance to nearby law enforcement and fire protection agencies and for related purposes.” The Act does not actually convey law enforcement authority to act outside park boundaries, which must be obtained from another source. “Emergency assistance,” usually done under an agreement, generally stems from some sort an unexpected occurrence that requires immediate action as detailed at NPS DO-9 Chapter 1-5, 2.2 (2000).
- D. D.C. Code Ann. § 5-201 (2001) gives United States Park Police the same law enforcement authority as the Metropolitan Police Department throughout the District of Columbia.
- E. D.C. Code Ann. §§ 5-206 – 208 (2001) gives United States Park Police law enforcement authority, “to make arrests without a warrant for any felony or misdemeanor committed in the presence or view of such member in violation of federal law or regulation” on and within roads, parks, parkways, and other federal reservations in the “environs of the District of Columbia,” which are the surrounding Maryland and Virginia counties and cities.
- F. The Land and Water Conservation Fund Act, 16 U.S.C. § 4601-6a authorizes agencies such as the NPS to enact regulations for areas under their administration for the collection of recreation use fees. The Act authorizes such agency law enforcement personnel to enforce such fee regulations and to make arrests without warrant for offenses committed in the presence of an arresting officer for such a fee violations. 16 U.S.C § 4601-6a(e).

II. The U.S. Fish and Wildlife Service:

- A. The National Wildlife Refuge System Administration Act of 1966, 16 U.S.C. § 660dd(f), gives FWS officers the authority to make arrests with or without a warrant for violations of the Act or FWS regulations in the National Wildlife Refuge System.
- B. The Upper Mississippi River Wildlife and Fish Refuge Act, 16 U.S.C. § 727(a), authorizes FWS officers to make arrests with or without a warrant for violations in

their presence, including trespass that occur within the refuge. Weapons and boats may be seized or searched.

- C. The Bear River Migratory Bird Refuge Act, 16 U.S.C. § 690e(a), authorizes FWS officers to make arrests with or without a warrant within the Bear River Refuge for violations in their presence, including trespass. Weapons and boats may be seized or searched.
- D. FWS officers may enforce the Endangered Species Act, 16 U.S.C. § 1540(e)(3), the Migratory Bird Treaty Act, 16 U.S.C. § 706, the Bald and Golden Eagle Protection Act 16 U.S.C. § 668b(a) and the Lacey Act, 16 U.S.C. § 3375(b), wherever such violations occur within the United States.
- E. The Marine Mammal Protection Act of 1972, 16 U.S.C. § 1377(d)(1)(2), authorizes FWS officers to make arrests with or without a warrant for violations of the Act and its regulations that the Secretary may utilize, by agreement, the personnel, services, and facilities of any other Federal agency for purposes of enforcing this title. Title 16 U.S.C. § 1377 (a) authorizes the Secretary to designate officers and employees of any State or of any possession of the United States to enforce the provisions of this title. Title 16 U.S.C. § 1377(d)(2) provides the authority for an agent “with a warrant or other process, or without a warrant if he has reasonable cause to believe that a vessel or other conveyance subject to the jurisdiction of the United States or any person on board is in violation of any provisions of this title or the regulations issued thereunder, search such vessel or conveyance and arrest such person. The Act also includes procedures at § 1377(d) to “seize the cargo of any vessel or other conveyance subject to the jurisdiction of the United States used or employed contrary to the provisions of this title or the regulations issued hereunder or which reasonably appears to have been so used or employed.”
- F. The Airborne Hunting Act, 16 U.S.C. § 742j(d), provides that employees of the Department, authorized by the Secretary, may execute arrest warrants and arrest without warrant any person committing a violation of the Act in their presence or view. FWS officers have been authorized by the Secretary under the Act.
- G. The Land and Water Conservation Fund Act, 16 U.S.C. § 4601-6a authorizes agencies like the FWS to enact regulations for areas under their administration for the collection of recreation use fees. The Act authorizes such agency law enforcement personnel to enforce such fee regulations and to make arrests without warrant for offenses committed in the presence of an arresting officer for such a fee violations. 16 U.S.C. § 4601-6a(e).

III. Bureau of Land Management:

- A. Section 303 of the Federal Land Policy and Management Act (FLPMA), 43 U.S.C. § 1733(c), authorizes the Secretary to enforce federal laws and regulations relating to the public lands and their resources. FLPMA defines public lands as “any land and interest in land owned by the United States within the several States and administered

by the Secretary of the Interior through the Bureau of Land Management, without regard to how the United States acquired ownership, except (1) lands located on the Outer Continental Shelf; and (2) lands held for the benefit of Indians, Aleuts, and Eskimos.” 43 U.S.C. § 1702(e).

FLPMA provides two ways the Secretary may carry out federal law enforcement functions on public lands:

- (1.) The Secretary may authorize federal personnel or appropriate local officials to carry out the Secretary’s law enforcement responsibilities pertaining to the public lands and their resources. 43 U.S.C. § 1733(c)(2).
- (2.) The Secretary may contract with local law enforcement officials “when the Secretary determines assistance is necessary in enforcing Federal laws and regulations relating to the public lands or their resources ... with the view of achieving maximum feasible reliance upon local law enforcement...” 43 U.S.C. § 1733(c)(1). Note: contracts with local officials have not been feasible for legal and practical reasons, and BLM has rarely attempted to use them.

The Secretary may use cooperative agreements with state or local governments to enforce state and local laws on public lands. 43 U.S.C. §1733(d).

The Secretary has delegated section 303 law enforcement authority to the Director, Bureau of Land Management who has redelegated it to BLM special agents and rangers. BLM law enforcement personnel may carry firearms, execute and serve applicable federal law. 43 U.S.C. § 1733(c)(1)-(2).

- B. The Wild Free-Roaming Horses and Burros Act of 1971, 16 U.S.C. § 1331-40, (Act) authorizes the Secretary to designate employees to enforce the Act. Designated employees may make arrests for violations of the Act committed in their presence and may serve warrants and other process executed by an officer or court of competent jurisdiction to enforce the Act. 16 U.S.C. § 1338(b). BLM officers have been authorized by the Secretary under the Act.
- C. The Sikes Act, 16 U.S.C. §670j, authorizes the Secretary to enforce public lands violations pertaining to fish and wildlife conservation and rehabilitation programs implemented under the Act. The Act authorizes law enforcement personnel to carry firearms, execute and serve warrants, makes arrests, search without a warrant or process any person, place or conveyance as provided by law; and seize evidence, as provided by law, for the purpose of enforcing the violation and penalty provisions of the Act.
- D. The Land Water Conservation Fund Act, 16 U.S.C. § 4601-6a authorizes agencies like BLM to enact regulations for areas under their administration for the collection of recreation use fees. The Act authorizes such agency law enforcement personnel to

enforce such fee regulations and to make arrests without warrant for offenses committed in the presence of an officer for such a fee violation. 16 U.S.C. § 4601-6a(e).

IV. Bureau of Reclamation :

- A. 107 Pub.L. 69 § 1(c)(1), 115 Stat. 593 § 1(c)(1) provides that the Secretary may designate Interior law enforcement personnel “to act as law enforcement officers to enforce Federal laws and regulations within a Reclamation project or on Reclamation lands.” The Act also authorizes the Secretary to “(2) authorize law enforcement personnel of any other Federal agency that has law enforcement authority (with the exception of the Department of Defense) or law enforcement personnel of any State or local government, including an Indian tribe, when deemed economical and in the public interest, through cooperative agreement or contract, to act as law enforcement officers to enforce Federal laws and regulations within a Reclamation project or on Reclamation lands with such enforcement powers as may be so assigned to them by the Secretary; (3) cooperate with any State or local government, including an Indian tribe, in the enforcement of the laws or ordinances of the State or local government; and (4) provide reimbursement to a State or local government, including an Indian tribe, for expenditures incurred in connection with the activities under paragraph (2).”

The Act, 107 Pub.L. 69 § 1(d), 115 Stat. 593 § 1(d) provides that a law enforcement officer authorized by the Secretary, may “(1) carry firearms within a Reclamation project or on Reclamation lands; (2) make arrests without warrants for--(A) any offense against the United States committed in his presence; or (B) any felony cognizable under the laws of the United States if he has (i) reasonable grounds to believe that the person to be arrested has committed or is committing such a felony; and (ii) such arrest occurs within a Reclamation project or on Reclamation lands or the person to be arrested is fleeing therefrom to avoid arrest; (3) execute within a Reclamation project or on Reclamation lands any warrant or other process issued by a court or officer of competent jurisdiction for the enforcement of the provisions of any Federal law or regulation issued pursuant to law for any offense committed within a Reclamation project or on Reclamation lands; and (4) conduct investigations within a Reclamation project or on Reclamation lands of offense against the United States committed within a Reclamation project or on Reclamation lands if the Federal law enforcement agency having investigative jurisdiction over the offense committed declines to investigate the offense.”

The Act, 107 Pub.L. 69 § 2(2), 115 Stat. 593 § 2(2), defines “Reclamation lands” and “Reclamation project” as defined at 16 U.S.C. § 4601-32, respectively, as “real property administered by the Secretary, acting through the Commissioner of Reclamation, and includes all acquired and withdrawn lands and water areas under jurisdiction of the Bureau,” “any water supply or water delivery project constructed or administered by the Bureau of Reclamation under the Federal reclamation laws...”

- B. BOR also has law enforcement authority specific to the Hoover Dam facility in Boulder City, Nevada. In 1973, the Department requested from the Administrator of General Services delegation of authority to the Secretary of the Interior to appoint

security guards as "special policemen" for protection of the Hoover Dam under the Act of June 1, 1948, 62 Stat. 281, as amended (codified at 40 U.S.C. §§ 318, 318a, 318d). On August 24, 1973, the Administrator delegated to the Secretary:

[A]uthority to permit the appointment of Department of the Interior guards as special policemen for the duty in connection with the protection of the Hoover Dam facility on the Colorado River near Boulder City, Nevada.

Under this delegation and the rules of conduct at Hoover Dam, 43 C.F.R. 421, the special policemen, known collectively as the Hoover Dam Police, may enforce federal felony laws at Hoover Dam, the regulations at Part 421, and other lesser federal laws or assimilated state laws that relate to visitor control or the protection of Hoover Dam. This delegated law enforcement authority appears to be narrower in scope than the authority of Pub.L. 107-69 and is limited to the Hoover Dam Police at Hoover Dam.

V. Bureau of Indian Affairs:

A. The Indian Law Enforcement Reform Act, 25 U.S.C. §§ 2801-2809, is the basis of BIA law enforcement authority:

- (1.) Section 2802(a) authorizes the Secretary, acting through the BIA, to provide, or assist in providing, law enforcement services in Indian country, as outlined in the Act.
- (2.) Section 2802(b) establishes the BIA Division of Law Enforcement Services (now called the Office of Law Enforcement and Security – OLES), to be supervised by either the Secretary or someone designated by the Secretary. The Office is responsible for carrying out the Secretary's law enforcement functions in Indian country and implementing the provisions of the section.
- (3.) Section 2802(c) charges the BIA OLES with the responsibility for: "(1) the enforcement of Federal law and, with the consent of the Indian tribe, tribal law; (2) in cooperation with appropriate Federal and tribal law enforcement agencies, the investigation of offenses against criminal laws of the United States; (3) the protection of life and property; (4) the development of methods and expertise to resolve conflicts and solve crimes; (5) the provision of criminal justice remedial actions, correctional and detention services, and rehabilitation; (6) the reduction of recidivism and adverse social effects; (7) the development of preventive and outreach programs which will enhance the public conception of law enforcement responsibilities through training and development of needed public service skills; (8) the assessment and evaluation of program accomplishments in reducing crime; (9) and the development and provision of law enforcement training and technical assistance."
- (4.) Section 2802(d)(1) authorizes the Secretary to establish a Branch of Criminal Investigations, which is responsible for "the investigation, and presentation for prosecution, of cases involving violations of sections 1152 and 1153 of Title 18, within Indian country." This authority is subject to agreements with

the Department of Justice and guidelines from the United States attorneys. The Branch is not "primarily responsible for the routine law enforcement and police operations of the Bureau in Indian country." § 2802(d)(2).

- (5.) Section 2803 provides that the Secretary may authorize Bureau employees with law enforcement responsibility to: "(1) carry firearms; (2) execute or serve warrants, summonses, or other orders relating to a crime committed in Indian country and issued under the laws of – (A) United States (including those issued by a Court of Indian Offenses under regulations prescribed by the Secretary), or (B) and Indian tribe if authorized by the Indian tribe; (3) make and arrest without a warrant for an offense committed in Indian country if – (A) the offense is committed in the presence of the employee, or (B) the offense is a felony and the employee has reasonable grounds to believe that the person to be arrested has committed, or is committing, the felony; (4) offer and pay a reward for services or information, or purchase evidence, assisting in the detection or investigation of the commission of an offense committed in Indian country or in the arrest of an offender against the United States; (5) make inquiries of any person, and administer to, or take from, any person an oath, affirmation, or affidavit, concerning any matter relevant to the enforcement or carrying out in Indian country of a law of either the United States or an Indian tribe that has authorized the employee to enforce or carry out tribal laws; (6) wear a prescribed uniform and badge or carry prescribed credentials; (7) perform any other law enforcement related duty; and (8) when requested, assist (with or without reimbursement) any Federal, tribal, State or local law enforcement agency in the enforcement or carrying out the law or regulations the agency enforces or administers."
 - (6.) Section 2804 grants the Secretary the authority to enter into agreements with local, tribal, state, or Federal law enforcement agencies for the purpose of enforcing Federal laws, or where a tribe has authorized the enforcement of its laws, tribal laws. The Secretary can grant these officers any of the authorities outlined in § 2803. These agreements must be made pursuant to any agreements between the Secretary and the Attorney General and with the agreement of the affected tribe(s). § 2804(b)-(c).
- B. 25 C.F.R. § 12.21 authorizes the BIA to issue law enforcement commissions to "other Federal, State, local and tribal full-time certified law enforcement officers to obtain active assistance in enforcing applicable Federal criminal statutes, including Federal hunting and fishing regulations, in Indian country." This commission grants these officers the authority to enforce Federal laws. With a tribe's permission, the commissioned officers are also authorized to enforce the laws of the tribe. 25 C.F.R. § 12.22.